

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Wassim Abedrabbo	Team: Squad #12	CCRB Case #: 201509982	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 11/20/2015 5:25 PM	Location of Incident: The Peninsula Area of Prospect Park	Precinct: 78	18 Mo. SOL 5/20/2017	EO SOL 5/20/2017	
Date/Time CV Reported Mon, 11/23/2015 5:51 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 11/23/2015 5:51 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Malachy Sullivan	04143	937595	078 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Sean Flanigan	29505	919047	078 PCT
2. POM Kenneth Loughlin	11412	924086	078 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Malachy Sullivan	Off. Language: PO Malachy Sullivan made a remark to § 87(2)(b) based upon perceived sexual orientation.	

Case Summary

On November 23, 2015, § 87(2)(b) filed a complaint via the CCRB website. On November 20, 2015, at approximately 5:25 p.m., § 87(2)(b) was seated in a gazebo in the Peninsula Area of Prospect Park in Brooklyn. A marked police van containing PO Sean Flanigan, PO Malachy Sullivan, and PO Kenneth Loughlin, all from the 78th Precinct, approached. As § 87(2)(b) began to gather his belongings to leave, PO Flanigan asked to provide his identification. After asking why and expressing his displeasure § 87(2)(b) provided his identification and PO Flanigan subsequently issued him a summons for failure to obey the posted park sign. § 87(2)(b) requested PO Flanigan's name and shield number and PO Flanigan said that information was on the summons. § 87(2)(b) then asked PO Sullivan for his name and shield number and PO Sullivan responded, "Officer Cocksucker" (**Allegation A**). § 87(2)(b) asked PO Sullivan for his name and shield number once more and PO Sullivan then provided it. § 87(2)(b) then left the scene.

There is no video evidence pertaining to this case.

Mediation, Civil and Criminal Histories

§ 87(2)(b) rejected mediation. As of January 8, 2016, the Notice of Claim Inquiry with the NYC Comptroller's Office was still pending. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (Board Review 03).
- PO Sullivan, an 11 year member-of-the-service, has no prior CCRB complaints (see officer history).

Findings and Recommendations

Allegations not pled

It is undisputed that § 87(2)(b) was stopped so that he could be summonsed for being in the park after dark and that § 87(2)(b) was in the park after dark. Thus no stop was pled.

It is undisputed that PO Sullivan provided his name and shield number to § 87(2)(b). While § 87(2)(b) alleged that when he initially asked PO Sullivan for his name and shield, PO Sullivan responded "Officer Cocksucker." The second time he asked, PO Sullivan provided it. Thus no refusal to provide name and shield was pled against PO Sullivan.

Allegation A –Offensive Language: PO Malachy Sullivan made remarks to § 87(2)(b) based upon perceived sexual orientation.

It is undisputed that when § 87(2)(b) requested PO Sullivan's name and shield number, PO Sullivan responded that his name was "Officer Cocksucker."

§ 87(2)(b) acknowledged yelling at the officers about his rights, but he did not state he used vulgarity (Board Review 04).

PO Sullivan stated that § 87(2)(b) was saying phrases including "don't shoot anyone tonight," "you wanna hit me don't you," "you're a cocksucker," "you're officer cocksucker," and "you're officer tough guy." PO Sullivan said that this was what motivated him to respond to § 87(2)(b)'s request for his information with "Officer Cocksucker" (Board Review 05).

PO Flanigan stated that § 87(2)(b) was making vulgar statements (Board Review 06). PO Flanigan believed that he made these comments to bait the officers into doing or saying something to § 87(2)(b) (Board Review 07).

Patrol Guide Procedure 203-10 states that it is prohibited for an officer to use discourteous or disrespectful remarks regarding another person's sexual orientation (Board Review 08).

§ 87(2)(g)

[REDACTED]

Squad:

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date